

United States Senate
WASHINGTON, DC 20510-2102

February 3, 2011

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The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Room 8B201
Washington, DC 20554

Dear Chairman Genachowski:

As you know, the Commerce Committee will hold a hearing in the near future on a slice of the nation's spectrum in the 700 MHz band known as the D Block that the public safety community is asking we reallocate to them. The goal, ten years after 9/11, is the long awaited development and maintenance of a modern broadband network infrastructure that public safety can use across jurisdictions nationwide. As I have said before, firefighters, police officers, and other first responders put their lives on the line every time the alarm bell rings and we need to ensure that they have what they need to protect us.

I believe much of the case for auction that your staff made in the National Broadband Plan was compelling, but now that the Administration has examined the issue from a variety of perspectives and concluded that reallocation is in the best interest of our nation's safety and security, I am prepared to fully back a reallocation of the D Block to public safety and to work with Chairman Rockefeller and Senator Hutchison toward moving legislation to do that effectively as quickly as possible.

With consideration of the outstanding issues that decision leaves unanswered, and in preparation for our upcoming hearing, I hope you and your staff can answer some questions that would help us make reallocation of spectrum not a simple transfer of airwaves, but also economically and operationally effective. The transfer of spectrum to public safety will not build, operate, nor maintain the network and devices operating on it, and what is of paramount importance is that the network gets built and that systems are truly interoperable across the country in poor and wealthy, dense and sparse communities.

With that in mind, I am asking the FCC for guidance in advance of the hearing on three questions: (1) Does the FCC have the staff and resources necessary to centrally administer how the spectrum will be used by public safety to ensure it is built and operational across the country?; (2) Does public safety hold other spectrum it does not find as useful or valuable that they could return and we could either auction or release for commercial purposes including enhanced unlicensed uses so as to relieve some of the spectrum crunch coming in commercial services?; and (3) What would be the proper distribution of costs for maintenance of the system between the federal government and local and state governments and can the commercial sector pick up some portion of that cost by leasing unused spectrum from public safety? .

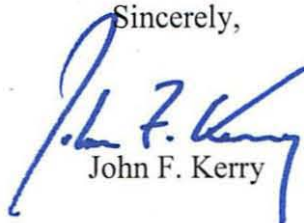
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As to the fiscal issue, I believe that voluntary incentive auctions can generate the revenue necessary to cover what is an admittedly high cost that reallocation creates, with money left over for deficit reduction and other purposes. I assure you that I will work to provide you with that authority as part of this legislation. I have struggled with this part of the challenge because it involves significant sums of money, but I do not believe that public safety should ever be a casualty of budget cutting efforts. Senator Snowe and I are working together to ensure that spectrum is better managed as a whole, and more spectrum that government agencies or private firms hold is released or shared to help make America the leader in wireless for a long time to come and I believe we can do that while simultaneously empowering the public safety community.

In addition to the fiscal issues, I am also somewhat concerned about the lack of competition and competitive provider access to commercial spectrum and would be interested in hearing your thoughts on that matter and what initiatives you can move forward or that we can include in legislation to ensure competitive carriers can serve consumers nationwide in this band.

Again, you and your team have done a great service in addressing the nature of the challenge and the scope of the task as it relates to public safety communications. We will need your continued full participation and expertise to make the reallocation effort most effective.

Sincerely,



John F. Kerry



FEDERAL COMMUNICATIONS COMMISSION

JULIUS GENACHOWSKI
CHAIRMAN

May 18, 2011

The Honorable John Kerry
Chairman
Subcommittee on Communications, Technology and the Internet
Committee on Commerce, Science, and Transportation
United States Senate
Washington, D.C. 20510

Dear Chairman Kerry:

Thank you for your letter regarding the portion of the 700 MHz frequency band known as the D Block. The Commission shares your goal of deploying a modern broadband network infrastructure that public safety can use nationwide in an economically viable manner. You requested that my staff and I research the following questions to aid you in your legislative efforts. Below are the answers to your questions.

(1) Does the FCC have the staff and resources necessary to centrally administer how the spectrum will be used by public safety to ensure it is built and operational across the country?

The Commission's FY 2012 request to Congress took into account the staff and resources necessary to administer how the spectrum will be used by public safety to ensure that the network is properly authorized and is interoperable nationwide. A key component of this program is the Emergency Response Interoperability Center (ERIC), which the Commission created last year to focus specifically on the operability and interoperability of the public safety broadband network. The FCC is maintaining its focus on interoperability through a proceeding it launched in January to examine technical issues regarding interoperability, including required coverage and build-out requirements.

(2) Does public safety hold other spectrum it does not find as useful or valuable that they could return and we could either auction or release for commercial purposes including enhanced unlicensed uses so as to relieve some of the spectrum crunch coming in commercial services?

As noted in the National Broadband Plan, public safety has a total of 97 MHz of spectrum allocated for use across the RF spectrum with 60 MHz of that total available for broadband use. Spectrum currently used by public safety in various bands is predominantly devoted to mission-critical voice services – an application that will continue to be needed after broadband operations are initiated in the 700 MHz band. Despite the fact that the 700 MHz

broadband network will evolve over time to support mission-critical voice, this evolution is likely to take a number of years in light of the time needed to deploy the 700 MHz network throughout the nation and to transition legacy voice operations to the broadband network once it is capable of handling them. Thus, during this time, 700 MHz broadband spectrum will supplement, rather than supplant public safety's communications needs. I do support, however, Congress's exploring whether enabling flexible use of public safety narrowband spectrum for broadband services would promote greater spectrum efficiency. Last September, the Commission's Public Safety and Homeland Security Bureau issued a public notice seeking comment on the technical and operational feasibility of enabling flexible use of the 700 MHz public safety narrowband spectrum for broadband services.

(3) What would be the proper distribution of costs for maintenance of the system between the federal government and local and state governments and can the commercial sector pick up some portion of that cost by leasing unused spectrum from public safety?

The Commission has not taken a position on exactly how the costs for maintaining the system should be apportioned between federal, state, and local governments. We have been quite clear, however, that the public safety broadband network requires significant funding, both for capital and operational costs.

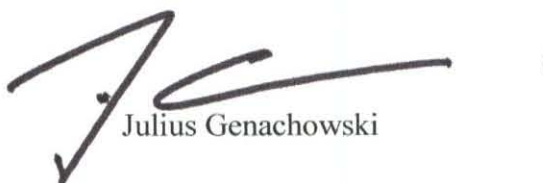
With respect to public safety leasing unused capacity to the commercial sector, there are two key considerations that must be taken into account. First, it is imperative that the public safety community has access to all of its spectrum on a priority basis when additional capacity is needed. Needless to say, such a requirement likely will impact the value of the spectrum to the commercial sector. Second, it is important to ensure that funding received from the lease of unused capacity on public safety spectrum is invested in the network to ensure its deployment in both urban and rural areas. Congress should consider imposing anti-diversion safeguards.

I agree with you regarding the importance of competition, both today and in the future, in the provision of mobile broadband services to consumers and in competitive provider access to commercial spectrum. In addressing these issues, it is critical that we take steps to increase the amount of spectrum available for the provision of commercial services. Enhancing the incentives and mechanisms to reallocate or repurpose spectrum, including – very importantly – incentive auctions, will help address these issues. We also should expand opportunities for innovative spectrum access models, including by continuing to encourage dynamic spectrum sharing and by increasing the effectiveness of secondary markets for spectrum. In addition, I share your goal of ensuring greater transparency concerning spectrum allocation and utilization, which should help facilitate access to spectrum by all providers. I believe that our spectrum innovation agenda will facilitate access to spectrum for a broad array of service providers, to the benefit of all Americans.

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I appreciate the opportunity to address your concerns. Please contact me if I or my staff can be of further assistance.

Sincerely,

A handwritten signature in dark ink, consisting of a stylized 'J' followed by a horizontal line and a small dot at the end.

Julius Genachowski